

## Subpart B—Claims and Statements

### § 1149.3 What is a claim?

(a) Claim means any request, demand, or submission:

(1) Made to the NEA for property, services, or money (including money representing grants, loans, insurance or benefits);

(2) Made to a recipient of property or services from the NEA, or to a party to a contract with the NEA for property or services if the United States:

(i) Provided such property or services;

(ii) Provided any portion of the funds for the purchase of such property or services; or

(iii) Will reimburse such recipient or party for the purchase of such property or services;

(3) Made to the NEA for the payment of money (including money representing grants, loans, insurance, or benefits) if the United States:

(i) Provided any portion of the money requested or demanded; or

(ii) Will reimburse such recipient or party for any portion of the money paid on such request or demand; or

(4) Made to the NEA which has the effect of decreasing an obligation to pay or account for property, services, or money.

(b) A claim can relate to grants, loans, insurance, or other benefits, and includes the NEA guaranteed loans made by participating lenders.

(c) Each voucher, invoice, claim form, or individual request or demand for property, services, or money constitutes a separate claim.

### § 1149.4 When is a claim made?

A claim is made to the NEA, when such claim is actually made to:

(a) An agent, fiscal intermediary, or other person or entity, including any State or political subdivision of a State, acting for or on behalf of the NEA; or

(b) A recipient of property, services, or money from the Government, or the party to a contract with the NEA.

### § 1149.5 What is a false claim?

(a) A claim submitted to the NEA is “false” if it:

(1) Is false, fictitious or fraudulent;

(2) Includes or is supported by a written statement which asserts or contains a material fact which is false, fictitious, or fraudulent;

(3) Includes or is supported by a written statement which is false, fictitious or fraudulent because it omits a material fact that you have a duty to include in the statement; or

(4) Is for payment for the provision of property or services which you have not provided as claimed.

(b) [Reserved]

### § 1149.6 What is a statement?

(a) A *statement* means any written representation, certification, affirmation, document, record, or accounting or bookkeeping entry made with respect to a claim (including relating to eligibility to make a claim) or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or with respect to (including relating to eligibility for) a contract, bid or proposal for a contract with the NEA, or a grant, loan or other benefit from the NEA, including applications and proposals for such grants, loans, or other benefits, if the United States Government provides any portion of the money or property under such contract or for such grant, loan or benefit, or if the Government will reimburse any party for any portion of the money or property under such contract or for such grant, loan, or benefit.

(b) A statement is made, presented, or submitted to the NEA when such statement is actually made to an agent, fiscal intermediary, or other person or entity acting for or on behalf of the NEA, including any State or political subdivision of a State, acting for or on behalf of the NEA; or the recipient of property, services, or money from the Government; or the party to a contract with the NEA.

### § 1149.7 What is a false statement?

(a) A statement submitted to the NEA is a *false statement* if you make the statement, or cause the statement to be made, while knowing or having reason to know that the statement:

(1) Asserts a material fact that is false, fictitious, or fraudulent; or

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(2) Is false, fictitious, or fraudulent because it omits a material fact that you have a duty to include in the statement and contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement.

(b) Each written representation, certification, or affirmation constitutes a separate statement.

### **Subpart C—Basis for Liability**

#### **§ 1149.8 What kind of conduct results in program fraud enforcement?**

If you make false claims or false statements, you may be subject to civil penalties and assessments under the PFCRA.

#### **§ 1149.9 What civil penalties and assessments may I be subjected to?**

(a) In addition to any other penalties that may be prescribed by law, the PFCRA may subject you to the following:

(1) A civil penalty of not more than \$5,000 for each false, fictitious or fraudulent statement or claim; and

(2) If the NEA has made any payment, transferred property, or provided services in reliance on a false claim, you are also subject to an assessment of not more than twice the amount of the false claim. This assessment is in lieu of damages sustained by the NEA because of the false claim.

(b) Each false, fictitious, or fraudulent claim for property, services, or money is subject to a civil penalty regardless of whether such property, services, or money is actually delivered or paid.

(c) No proof of specific intent to defraud is required to establish liability under this section for either false claims or false statements.

(d) [Reserved]

(e) In any case in which it is determined that more than one person is liable for making a false, fictitious, or fraudulent claim or statement under this section, each such person may be held liable for a civil penalty and assessment under this section.

(f) In any case in which it is determined that more than one person is liable for making a claim under this section on which the Government has

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made payment (including transferred property or provided services), an assessment may be imposed against any such person or jointly and severally against any combination of persons.

### **Subpart D—Procedures Leading to the Issuance of a Complaint**

#### **§ 1149.10 How is program fraud investigated?**

The Inspector General, or his/her designee, is the investigating official responsible for investigating allegations that you have made a false claim or statement.

#### **§ 1149.11 May the investigating official issue a subpoena?**

(a) Yes. The Inspector General has authority to issue administrative subpoenas for the production of records and documents. If an investigating official concludes that a subpoena is warranted, he/she may issue a subpoena.

(1) The issued subpoena must notify you of the authority under which it is issued and must identify the records or documents sought;

(2) The investigating official may designate a person to act on his or her behalf to receive the documents sought; and

(3) You are required to tender to the investigating official, or the person designated to receive the documents, a certification that:

(i) The documents sought have been produced;

(ii) Such documents are not available and the reasons therefore; or

(iii) Such documents, suitably identified, have been withheld based upon the assertion of an identified privilege.

(b) Nothing in this section precludes or limits an investigating official's discretion to refer allegations within the Department of Justice for suit under the False Claims Act or other civil relief, or to defer or postpone a report or referral to the reviewing official to avoid interference with a criminal investigation or prosecution.

(c) Nothing in this section modifies any responsibility of an investigating official to report violations of criminal law to the appropriate component of the Department of Justice.